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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

KEITH HOBBS; ABANTE ROOTER ) Case No.  
AND PLUMBING INC., individually )  
and on behalf of all others similarly ) **CLASS ACTION**  
situated, )  
 ) **COMPLAINT FOR VIOLATIONS**  
Plaintiffs, ) **OF:**  
 )  
vs. ) 1. NEGLIGENT VIOLATIONS OF  
 ) THE TELEPHONE CONSUMER  
 ) PROTECTION ACT [47 U.S.C.  
PARADIGM FUNDING, LLC. and ) §227(b)]  
DOES 1 through 10, inclusive, and )  
each of them, ) 2. WILLFUL VIOLATIONS OF THE  
 ) TELEPHONE CONSUMER  
 ) PROTECTION ACT [47 U.S.C.  
Defendant. ) §227(b)]  
 )  
 ) **DEMAND FOR JURY TRIAL**

Plaintiffs KEITH HOBBS and ABANTE ROOTER AND PLUMBING INC. (collectively referred to as “Plaintiffs”), individually and on behalf of all others similarly situated, allege the following upon information and belief based upon personal knowledge:

///

1 **NATURE OF THE CASE**

2 1. Plaintiffs bring this action individually and on behalf of all others  
3 similarly situated seeking damages and any other available legal or equitable  
4 remedies resulting from the illegal actions of PARADIGM FUNDING, LLC.  
5 (“Defendant”), in negligently, knowingly, and/or willfully contacting Plaintiffs on  
6 Plaintiffs’ cellular telephone in violation of the Telephone Consumer Protection  
7 Act, 47 U.S.C. § 227 *et seq.* (“TCPA”) and related regulations.

8  
9 **JURISDICTION & VENUE**

10 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiffs,  
11 residents of California, seek relief on behalf of a Class, which will result in at least  
12 one class member belonging to a different state than that of Defendant, a Delaware  
13 company. Plaintiffs also seek up to \$1,500.00 in damages for each call in violation  
14 of the TCPA, which, when aggregated among a proposed class in the thousands,  
15 exceeds the \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both  
16 diversity jurisdiction and the damages threshold under the Class Action Fairness  
17 Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

18 3. Venue is proper in the United States District Court for the Northern  
19 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Plaintiff Abante  
20 Rooter and Plumbing Inc. resides within the State of California.

21 **PARTIES**

22 4. Plaintiff, KEITH HOBBS is a natural person residing in Muskagee  
23 County, State of Georgia, and is a “person” as defined by 47 U.S.C. § 153 (39).

24 5. Plaintiff, ABANTE ROOTER AND PLUMBING INC, is a rooting  
25 and plumbing business in Emeryville, California and is a “person” as defined by  
26 47 U.S.C. § 153 (39).

27 6. Defendant, PARADIGM FUNDING, LLC. (“Defendant”) is money  
28 lending company and is a “person” as defined by 47 U.S.C. § 153 (39).

1           7.     The above-named Defendant, and its subsidiaries and agents, are  
2 collectively referred to as “Defendants.” The true names and capacities of the  
3 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are  
4 currently unknown to Plaintiffs, who therefore sue such Defendants by fictitious  
5 names. Each of the Defendants designated herein as a DOE is legally responsible  
6 for the unlawful acts alleged herein. Plaintiffs will seek leave of Court to amend  
7 the Complaint to reflect the true names and capacities of the DOE Defendants when  
8 such identities become known.

9           8.     Plaintiffs are informed and believe that at all relevant times, each and  
10 every Defendants were acting as an agent and/or employee of each of the other  
11 Defendants and was acting within the course and scope of said agency and/or  
12 employment with the full knowledge and consent of each of the other Defendants.  
13 Plaintiffs are informed and believe that each of the acts and/or omissions  
14 complained of herein was made known to, and ratified by, each of the other  
15 Defendants.

### 16                           **FACTUAL ALLEGATIONS**

17           9.     Beginning in or around October 2018, Defendant contacted Plaintiff  
18 KEITH HOBBS on Plaintiff’s cellular telephone number ending in -7558., in an  
19 attempt to solicit Plaintiff to purchase Defendant’s services.

20           10.    Beginning in or around January 2019 Defendant contacted Plaintiff  
21 ABANTE ROOTER AND PLUMBING INC on Plaintiff’s cellular telephones  
22 ending in -1080, -7210, and -5520, in an attempt to solicit Plaintiff to purchase  
23 Defendant’s services.

24           11.    Defendant used an “automatic telephone dialing system” as defined  
25 by 47 U.S.C. § 227(a)(1) to place its call to Plaintiffs seeking to solicit it services.

26           12.    Defendant contacted or attempted to contact Plaintiffs from telephone  
27 numbers (347) 480-1078, (205) 580-6420, (347) 384-8009, (347) 796-4299, and  
28 (718) 406-4114, confirmed to be Defendant’s number.

13. Defendant's calls constituted calls that were not for emergency purposes as defined by 47 U.S.C. § 227(b)(1)(A).

14. Defendant's calls were placed to telephone number assigned to a cellular telephone service for which Plaintiffs incur a charge for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

15. During all relevant times, Defendant did not possess Plaintiffs' "prior express consent" to receive calls using an automatic telephone dialing system or an artificial or prerecorded voice on their cellular telephones pursuant to 47 U.S.C. § 227(b)(1)(A).

16. Such calls constitute solicitation calls pursuant to 47 C.F.R. § 64.1200(c)(2) as they were attempts to promote or sell Defendant's services.

### **CLASS ALLEGATIONS**

17. Plaintiffs bring this action individually and on behalf of all others similarly situated, as a member the ATDS Class.

18. The class concerning the ATDS claim for no prior express consent (hereafter "The ATDS Class") is defined as follows:

All persons within the United States who received any solicitation/telemarketing telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously consented to receiving such calls within the four years prior to the filing of this Complaint

19. Plaintiffs represent, and are a member of, The ATDS Class, consisting of all persons within the United States who received any collection telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such

1 person had not previously not provided their cellular telephone number to  
2 Defendant within the four years prior to the filing of this Complaint.

3 20. Defendant, its employees and agents are excluded from The Class.  
4 Plaintiffs do not know the number of members in The Class, but believes the Class  
5 members number in the thousands, if not more. Thus, this matter should be  
6 certified as a Class Action to assist in the expeditious litigation of the matter.

7 21. The Class is so numerous that the individual joinder of all of its  
8 members is impractical. While the exact number and identities of The Class  
9 members are unknown to Plaintiffs at this time and can only be ascertained through  
10 appropriate discovery, Plaintiffs are informed and believe and thereon allege that  
11 The Class includes thousands of members. Plaintiffs allege that The Class members  
12 may be ascertained by the records maintained by Defendant.

13 22. Plaintiffs and members of The ATDS Class were harmed by the acts  
14 of Defendant in at least the following ways: Defendant illegally contacted Plaintiffs  
15 and ATDS Class members via their cellular telephones thereby causing Plaintiffs  
16 and ATDS Class members to incur certain charges or reduced telephone time for  
17 which Plaintiffs and ATDS Class members had previously paid by having to  
18 retrieve or administer messages left by Defendant during those illegal calls, and  
19 invading the privacy of said Plaintiffs and ATDS Class members.

20 23. Common questions of fact and law exist as to all members of The  
21 ATDS Class which predominate over any questions affecting only individual  
22 members of The ATDS Class. These common legal and factual questions, which  
23 do not vary between ATDS Class members, and which may be determined without  
24 reference to the individual circumstances of any ATDS Class members, include,  
25 but are not limited to, the following:

- 26 a. Whether, within the four years prior to the filing of this  
27 Complaint, Defendant made any telemarketing/solicitation call  
28 (other than a call made for emergency purposes or made with

the prior express consent of the called party) to a ATDS Class member using any automatic telephone dialing system or any artificial or prerecorded voice to any telephone number assigned to a cellular telephone service;

b. Whether Plaintiffs and the ATDS Class members were damaged thereby, and the extent of damages for such violation; and

c. Whether Defendant should be enjoined from engaging in such conduct in the future.

24. As a person that received numerous telemarketing/solicitation calls from Defendant using an automatic telephone dialing system or an artificial or prerecorded voice, without Plaintiffs' prior express consent, Plaintiffs are asserting claims that are typical of The ATDS Class.

25. Plaintiffs will fairly and adequately protect the interests of the members of The Class. Plaintiffs have retained attorneys experienced in the prosecution of class actions.

26. A class action is superior to other available methods of fair and efficient adjudication of this controversy, since individual litigation of the claims of all Class members is impracticable. Even if every Class member could afford individual litigation, the court system could not. It would be unduly burdensome to the courts in which individual litigation of numerous issues would proceed. Individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same complex factual issues. By contrast, the conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each Class member.

27. The prosecution of separate actions by individual Class members

1 would create a risk of adjudications with respect to them that would, as a practical  
 2 matter, be dispositive of the interests of the other Class members not parties to such  
 3 adjudications or that would substantially impair or impede the ability of such non-  
 4 party Class members to protect their interests.

5 28. Defendant has acted or refused to act in respects generally applicable  
 6 to The Class, thereby making appropriate final and injunctive relief with regard to  
 7 the members of the Class as a whole.

### 8 **FIRST CAUSE OF ACTION**

#### 9 **Negligent Violations of the Telephone Consumer Protection Act**

10 **47 U.S.C. §227(b).**

#### 11 **On Behalf of Plaintiffs and the ATDS Class**

12 29. Plaintiffs repeat and incorporate by reference into this cause of action  
 13 the allegations set forth above.

14 30. The foregoing acts and omissions of Defendant constitute numerous  
 15 and multiple negligent violations of the TCPA, including but not limited to each  
 16 and every one of the above cited provisions of *47 U.S.C. § 227(b)*, and in particular  
 17 *47 U.S.C. § 227 (b)(1)(A)*.

18 31. As a result of Defendant's negligent violations of *47 U.S.C. § 227(b)*,  
 19 Plaintiffs and the Class Members are entitled an award of \$500.00 in statutory  
 20 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

21 32. Plaintiffs and the ATDS Class members are also entitled to and seek  
 22 injunctive relief prohibiting such conduct in the future.

### 23 **SECOND CAUSE OF ACTION**

#### 24 **Knowing and/or Willful Violations of the Telephone Consumer Protection**

25 **Act**

26 **47 U.S.C. §227(b)**

#### 27 **On Behalf of Plaintiffs and the ATDS Class**

28 33. Plaintiffs repeat and incorporate by reference into this cause of action

1 the allegations set forth above.

2 34. The foregoing acts and omissions of Defendant constitute numerous  
3 and multiple knowing and/or willful violations of the TCPA, including but not  
4 limited to each and every one of the above cited provisions of *47 U.S.C. § 227(b)*,  
5 and in particular *47 U.S.C. § 227 (b)(1)(A)*.

6 35. As a result of Defendant's knowing and/or willful violations of *47*  
7 *U.S.C. § 227(b)*, Plaintiffs and the ATDS Class members are entitled an award of  
8 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*  
9 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

10 36. Plaintiffs and the Class members are also entitled to and seek  
11 injunctive relief prohibiting such conduct in the future.

## 12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs request judgment against Defendant for the following:

### 14 **FIRST CAUSE OF ACTION**

#### 15 **Negligent Violations of the Telephone Consumer Protection Act**

##### 16 **47 U.S.C. §227(b)**

- 17 • As a result of Defendant's negligent violations of *47 U.S.C.*  
18 *§227(b)(1)*, Plaintiffs and the ATDS Class members are entitled to  
19 and request \$500 in statutory damages, for each and every violation,  
20 pursuant to *47 U.S.C. 227(b)(3)(B)*.
- 21 • Any and all other relief that the Court deems just and proper.

### 22 **SECOND CAUSE OF ACTION**

#### 23 **Knowing and/or Willful Violations of the Telephone Consumer Protection** 24 **Act**

##### 25 **47 U.S.C. §227(b)**

- 26 • As a result of Defendant's willful and/or knowing violations of *47*  
27 *U.S.C. §227(b)(1)*, Plaintiffs and the ATDS Class members are  
28 entitled to and request treble damages, as provided by statute, up to



1           \$1,500, for each and every violation, pursuant to 47 U.S.C.  
2           §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).

- 3           • Any and all other relief that the Court deems just and proper.

4                               **JURY DEMAND**

5           37. Pursuant to the Seventh Amendment to the Constitution of the United  
6 States of America, Plaintiffs are entitled to, and demand, a trial by jury.

7  
8           Respectfully submitted this 9th day of July, 2020.

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10                               LAW OFFICES OF TODD M. FRIEDMAN, P.C.

11                               By: /s/ Todd M. Friedman  
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14                               Attorney for Plaintiffs  
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